IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24714 of 2006

DATED: 11.10.2007

Between:

Mahankali Uppaliah
petitioner

And

The Singareni Collieries Company Ltd
Rep by its Managing Director,
Singareni Bhavan,
Khairtabad, Hyderabad & ors
Respondents

THE HON'BLE MR JUSTICE N.V. RAMANA

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ORAL ORDER:

This writ petition is filed questioning the action of the respondents in not considering the case of the petitioner for alternative employment as illegal and discriminative.

The petitioner was employed in the respondent company as "Timberman". While so, on 3.2.2000 during the course of employment, he met with an accident and suffered injuries to head affecting his spinal card and he was treated as inpatient at Nizams Institute of Medical Sciences, Hyderabad (for short NIMS) and later on at Singareni Collieries company hospital at Godavarikhani. Thereafter, the petitioner was declared unfit to perform the duties of "Timberman" w.e.f. 21.12.2000 and removed from the rolls of the company w.e.f. 26.12.2000. The petitioner made an application dated 12.1.2001 requesting the authorities to consider his case for providing alternative employment and he was referred to NIMS and found fit to perform light duties on surface. Based on the said recommendations of the NIMS hospital, the petitioner made an application dated 6.2.2005 requesting the authorities to provide alternative employment, however no action is taken by the respondents. Hence, the present writ petition.

A counter affidavit is filed contending that the petitioner being a "workman" as defined under the Industrial Disputes Act, 1947 has an efficacious remedy, and without availing the same filed the present writ petition and the same is not maintainable. Further, the accident in question was admitted and it is stated that the petitioner was treated appropriately in the Company hospital, as well as at NIMS and the Medical Board examined the petitioner and issued letter dated 16.12.2000 declaring him unfit for further services in the company, as such his services were terminated w.e.f. 25.12.2000. It is further stated that since the petitioner is declared unfit to perform the further services in the company, in terms of the settlement dated 12.3.1990 he is entitled to dependant employment to dependant, monthly monetary

compensation of Rs.3000/- per month in lieu of dependant employment or Rs.3,00,000/- as lumpsum amount in lieu of dependant employment, but not entitled to alternative employment. It is also stated that the terminal benefits to which the petitioner is entitled are paid and the application dated 2.8.2003 made by the petitioner for lumpsum compensation of Rs.3,00,000/- is under process. It is further stated that keeping in view the fact that most of the works in the respondent company relate to underground operations, the Government of A.P. exempted the respondent company from implementing the provisions of Persons With Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995 vide G.O.Rt No. 78 dated 14.3.2006.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-company.

As can be seen from the counter, the respondent-company have already paid substantial amounts to the petitioner – Rs.95,729/- towards gratuity; Rs.3,83/- towards FBIS, Rs.3,58,754/- towards CMPF; Rs.97,842/- towards 50% workmen compensation. Apart from that, he was also sanctioned pension under the Coal Mines Pension Scheme. This apart, the learned Standing Counsel for respondent-company on instructions submitted that the request of the petitioner for payment of lumpsum compensation of Rs.3,00,000/- in lieu of dependent employment, is said to be under process. However, having regard to the fact that the respondent-company is said to have been exempted from the provisions of the Persons with Disabilities (Equal Opportunities Protection of Rights and Full Participation) Act, 1995, no direction can be given to the respondent-company to provide alternative employment. Since, the request of the petitioner for payment of lumpsum compensation of Rs.3,00,000/- in lieu of dependant employment, is said to be under process, it is appropriate to direct the respondent-company to expedite the process, and take appropriate decision thereon, and pay the eligible amounts, within a period of three weeks from the date of receipt of copy of this order.

Accordingly, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE:11.10.2007
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